

1 UNITED STATES BANKRUPTCY COURT

2 DISTRICT OF DELAWARE

3
4 In re: :

5 : Chapter 11

6 W&R GRACE & CO., : Case No. 01-01139-amc

7 Debtors. :

8 _____:

9
10 United States Bankruptcy Court

11 For the Eastern District of Pennsylvania

12 900 Market Street, Suite 204

13 Philadelphia, PA 19107

14
15 June 14, 2022

16 11:57 a.m. - 12:08 p.m.

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21 B E F O R E :

22 HON ASHELY M. CHAN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO OPERATOR: UNKNOWN

1 HEARING re Settlement Motion

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

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8 BY: MARLA ROSOFF ESKIN

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15 BY: RICHARD L. SCHEPACARTER

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20 Chicago, IL 60601

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22 BY: ROGER J. HIGGINS

23

24 ALSO PRESENT:

25 AUTRY EARL BARNEY, Claimant

1 P R O C E E D I N G S

2 THE COURT: This the 12:00 list for Judge Chan for
3 June the 4th. This matter WR Grace & Company. It's a
4 motion for settlement. Counsel, and parties make their
5 appearance please.

6 MS. ESKIN: This is Marla Eskin for the WRG
7 Asbestos P.I. Trust.

8 MR. SCHEPACARTER: Richard Schepacarter for the
9 United States Trustee.

10 MR. HIGGINS: This is Roger Higgins with WR Grace &
11 Co. reorganized Debtor.

12 THE COURT: Okay. So --

13 MS. ESKIN: Mr. Barney, can you identify yourself
14 for the record?

15 MR. BARNEY: Autry Earl Barney.

16 MS. ESKIN: Thank you.

17 THE COURT: Okay. So I saw the pleadings have
18 been filed in this matter. And I understand that the
19 Claimant would like to get payment of \$15,000. But it's WR
20 Grace's position that for statute of limitations reasons as
21 well as deficiencies on the original proof of claim, they
22 have not -- they do not intend to make any payment on this
23 claim. Is that true, WR Grace?

24 MS. ESKIN: Yes. This is Marla Eskin for the Trust
25 -- the WRG Trust. That --

1 THE COURT: Yes, yes.

2 MS. ESKIN: -- that's correct for reasons set
3 forth in the letter. The trust is not going to pay this,
4 has denied this claim or as I should say has issued
5 deficiencies on this claim.

6 THE COURT: Right. Okay. So Claimant, do you
7 understand that there's both things on this issue?.

8 MR. BARNEY: Your Honor, I had -- I had
9 straightened those decisions out. I had straightened those
10 out and plus this -- this was a case that was part of filing
11 the court system on Section 5.1 of something. It was you
12 know, it -- you know, it seemed like to me -- I'm not a
13 lawyer, that I was entitled to the settlement.

14 THE COURT: Well, perhaps, the Trust could first
15 address the statute of limitations issue for the Court.

16 MS. ESKIN: We set forth in the letter that his
17 claim needed to be filed by -- there was claim bar date. It
18 was not file by the date -- there was a diagnosis that we
19 prepetition and it needed to be filed by -- by the -- by a
20 certain date. It wasn't filed by that claim's bar date.

21 THE COURT: So I think that's the first issue,
22 sir. It looks like you hold a prepetition claim against the
23 Trust, but unfortunately, you failed to file by the bar
24 date. That's by the deadline by which all prepetition
25 claims had to be filed. Do you have a defense to that, sir?

1 MR. BARNEY: Ain't -- in that court system, ain't
2 there a section there, if it's file in the court system,
3 well, that was entitled to a settlement?

4 THE COURT: I'm not sure I understand what you
5 just said there, sir?

6 MR. BARNEY: If the case was filed in the court
7 system --

8 THE COURT: The case was filed in bankruptcy
9 court.

10 MR. BARNEY: Now --

11 MS. ESKIN: I think what Mr. Schepacarter might be
12 referring to is the suppressed distribution, there's a
13 tolling for claims that were filed for a period of
14 (indiscernible) for claims that were filed in the system
15 were not -- we haven't gotten a subsequent (indiscernible)
16 on the statute of limitations, Mr. Barney. So I'm not aware
17 of any filing in this court system. That's what he's
18 referring to.

19 THE COURT: All right, sir. So it sounds like
20 there's no basis for tolling of the statutes of limitations
21 in this case.

22 MR. BARNEY: I can't hardly hear you too good,
23 Your Honor. I don't know if my phone not -- I can't really
24 hear you.

25 THE COURT: Right. Well, so it sounds like,

1 unfortunately, you failed to fire -- file your claim in a
2 timely manner. And it doesn't sound like there's any basis
3 for tolling, like, any kind of delay of the imposition of
4 that statute of limitations. So in the absence of that,
5 we're not going to be able to recognize your claim.

6 MR. BARNEY: Your Honor, I mean -- you mean, and
7 my father, he had received a settlement from the -- from
8 this trust.

9 THE COURT: Yeah. And if it -- I assume he
10 received a settlement because he filed a timely claim. If
11 you don't file a claim within the -- within the deadline,
12 then we can't -- then, you know, you cannot get payment on
13 your claim. So it sounds like your father did. Is that
14 correct, Trust, that his father did file? I don't know if
15 you know that or not, but?

16 MS. ESKIN: This is Marla Eskin. We're not aware
17 of -- its not information that was provided to the Trust.
18 So we're not aware of any -- of any settlement. We've let
19 Mr. Barney know that. If he knows if his father was
20 represented by counsel, maybe he could reach out to them to
21 see what -- if he could get information. But we do not have
22 that information.

23 THE COURT: Okay. Well, so unfortunately, there's
24 nothing the Court can do about this claim. And we'll enter
25 an order -- this was teed up as a motion, right, Jill?

1 CLERK: I'm sorry, what, Judge?

2 THE COURT: This was teed up as a motion filed by
3 the Claimant; is that correct?

4 CLERK: No, this a status hearing setup by a
5 letter by the Trustee.

6 THE COURT: Okay. So why don't we compel -- say
7 that the status hearing was held. And there's nothing for
8 the Court to do at this time.

9 MS. ESKIN: Okay.

10 MR. BARNEY: (Indiscernible).

11 THE COURT: All right. Thank you, everybody.

12 MS. ESKIN: Thank you.

13 (Whereupon these proceedings were concluded at
14 12:08 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: June 21, 2022

[& - grace's]

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[hear - trustee]

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[u - yeah]

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